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June 4, 2004

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VIA ELECTRONIC FILING

Marlene Dortch
Secretary
Federal Communications Commission
445 Twelfth St., SW
Washington, DC 20554

**Re: Petition for Declaratory Ruling of Puerto Rico Telephone Co., CC
Docket No. 95-116**

Dear Ms. Dortch:

Puerto Rico Telephone Company ("PRT"), through its undersigned counsel, hereby submits the following supplement to the record in the above-referenced proceeding.

On November 26, 2003, PRT submitted a Petition to the Commission seeking a declaratory ruling that federal number pooling and number portability rules preempted an Order issued by the Telecommunications Regulatory Board of Puerto Rico ("Board") that required PRT to maintain a system known as "reverse toll billing." The Commission put PRT's Petition on Public Notice on January 9, 2004. Comments were received on February 9, and reply comments on March 1.

In its Petition, PRT argued that maintaining reverse toll billing in an intermodal pooling and porting environment as mandated by the Board would require the company to offer reverse toll billing for all numbers in NPA-NXXs that were initially assigned to wireless carriers (no matter to which carrier the number was assigned). Conversely, PRT would be unable to offer reverse toll billing on numbers in NPA-NXXs that had originally been assigned to wireline carriers, again regardless to which carrier the number was currently assigned. The practical impact, PRT observed, would be that calls to wireless customers would be treated differently depending solely on whether the customers' carrier assigned them a number in a native wireline or a native wireless NPA-NXX.

The attached complaints, filed at the Board by Centennial Puerto Rico Operations Corp. ("Centennial"), a major wireless carrier in Puerto Rico, confirm that PRT's concerns were well-grounded, and contradict the comments Centennial filed with this Commission. Centennial submitted an opposition to PRT's above-referenced Petition at the FCC, claiming that PRT was exaggerating the size of the problem,

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and suggesting that if any discrimination were to take place, it would be reasonable under the circumstances. In its opposition, Centennial stated:

The law does not outlaw each and every difference in customers that are arguably similarly situated; it only outlaws “unreasonable” discrimination... The legal question is not answered simply by noting that [a] difference exists. *The legal question is whether the difference is unreasonable* considering all the circumstances. *Centennial submits that it is not.* People calling the customer with the ported number will experience exactly the same toll/local rating arrangements as existed prior to the port.¹

However, Centennial’s recent complaints at the Board tell a different story.² In the attached filings, Centennial states that it has been assigned native wireline numbers by the pooling administrator, that it has assigned these numbers to its wireless customers, and that PRT landline customers calling these customers are being assessed toll charges. Centennial then asks the Board for an “Emergency Order” to stop PRT from assessing such charges. This is *exactly* the situation that PRT described to the Board prior to the issuance of its Order, and the disparate treatment of customers assigned native wireline numbers vis-a-vis other wireless customers is the reason that PRT sought Commission guidance on the question of how to reconcile the Board’s Order with its federal non-discrimination obligations and pooling and porting requirements.

Despite Centennial’s assurance to the Commission that any discrimination resulting from disparate treatment of calls would not be unreasonable, Centennial now claims that this very same treatment adversely affects Centennial’s clients and Centennial’s image, and will result in irreparable harm to Centennial through damage to its image

¹ Comments of Centennial Communications Corp., CC Docket No. 95-116 at 8 (Feb. 9, 2004) (emphasis added).

² See Complaint and Emergency Order Request, JRT-2004-Q-0206 (filed May 17, 2004) (“Complaint”); Amendment to Complaint and Emergency Order Request, JRT-2004-Q-0206 (filed May 19, 2004) (“Amendment”), attached as Exhibits 1 and 2, respectively. These filings were originally made in Spanish. Certified translations are provided for the Commission’s convenience.

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and ability to compete.³ Centennial cannot have it both ways. Either the disparate treatment harms wireless carriers and is unreasonable, or it is not.

Moreover, while in these complaints Centennial once again makes vague allusions to a technical solution that would allow PRT to retain reverse toll billing without the current discrimination problems, Centennial has steadfastly refused to identify this supposed solution in detail. As PRT explained in its Petition, ILECs throughout the country have reached the same conclusion that PRT has: reverse toll billing is not compatible with pooling and porting, and there is no technical “magic bullet” that solves the incompatibility issue. PRT knows of no carrier that has been able to maintain seamless reverse toll billing arrangements in a pooling and porting environment.

The issues identified by Centennial in the attached filings will only worsen the longer that reverse toll billing is retained. With more and more wireless carriers being assigned numbers in native wireline NPA-NXXs, public confusion and anger over difficult to understand toll charges will only increase. Further, the lack of clarity regarding numbering continues to impede intermodal portability in Puerto Rico, hampering the ability of customers to change service providers while keeping their numbers. Therefore, PRT urges the Commission to grant its Petition for a declaratory ruling and find that the Board’s Order is inconsistent with federal law.

³ Complaint, 5, 6-7.

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PRT appreciates the opportunity to keep the Commission apprised of these important developments. If you have any questions about the attached material, please do not hesitate to contact the undersigned.

Sincerely,

A handwritten signature in dark ink, appearing to read "Suzanne Yelen". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Suzanne Yelen
Joshua Turner

cc Sheryl Todd, Wireline Competition Bureau
Pam Slipakoff, Wireline Competition Bureau
Veronica Ahearn, Counsel for the TRB

EXHIBIT 1

**GOVERNMENT OF PUERTO RICO
PUERTO RICO TELECOMMUNICATIONS
REGULATORY BOARD**

CENTENNIAL PUERTO RICO
OPERATIONS CORP.

Complainant

PUERTO RICO TELEPHONE
COMPANY

Defendant

[Stamped: **ORIGINAL**]

CASE NO.

[Vertical ink stamp:
PUERTO RICO TELECOMMUNICATIONS
REGULATORY BOARD
(illegible) MAY 17 (illegible)]

COMPLAINT AND EMERGENCY ORDER REQUEST

TO THE HONORABLE BOARD:

COMES NOW Centennial Puerto Rico Operations Corp. ("Centennial") through the undersigned legal representative, and very respectfully States, Alleges, and Prays:

I. INTRODUCTION

1. North American Numbering Plan Administration (NANPA) is the entity in charge of administering the numbering and code area resources of the North American central offices (NPA-NXX)¹. NANPA is the entity that allocates the codes to carriers in blocks of ten thousand numbers (10,000), that is, from NPA-NXX-0000 to NPA-NXX-9999.

2. The number pooling mechanism was implemented for optimum efficiency in the use of the codes associated with a geographical area. Through this system, carriers donate

¹ NPA refers to the Numbering Plan Area or area code. NXX is the format used for the central office code and for the NPA code, N being a number between 2 and 9, and X being a number between 0 and 9.

blocks of one thousand (1,000) consecutive numbers within their NPA-NXXs² to be returned to the numbers pool, and reassigned to other smaller carriers. The Number Pool Administration (PA) together with the Number Portability Administration Center (NPAC), is the entity responsible for allocating these thousand-number blocks. All the number administration services are provided by NeuStar, Inc. ("NeuStar"), which, as a general rule, takes into account the amount of numbers or ranges assigned to the companies, and the expectations of exhausting said numbers when making the block allocations.

3. On October 29, 2003, PA allocated to Centennial block 787-293-7XXX, under the Trujillo Alto (TRUJILLOAL) Rate Center, effective November 10, 2003. See Exhibit 1, page 4. This thousand-number block had been previously donated to the pool by Puerto Rico Telephone Company ("PRTC") which retains the remaining nine thousand (9,000) numbers of this NXX.

4. Things being as they were, Centennial began assigning the aforementioned block to its wireless units. As of today, Centennial has programmed close to seven hundred fifty (750) mobile units with the numbers in the aforementioned 787-293-7XXX range.

5. Centennial's Customer Service Center received several calls from customers who had been assigned a number beginning with 787-293, complaining that they could not receive calls originated from PRTC fixed line telephones located outside the metropolitan area; they had to dial 1, and complete the call as if it were a long distance call. According to the customers, when they tried to call a Centennial cell phone, PRTC fixed line users got a recording telling them that they had to dial 1 before the number in order to complete the call.

² The thousand-number blocks are taken from the NPA-NXX000 to the NPA-NXX999, X being a number between 0 and 9.

6. Centennial proceeded to contact PRTC to inform them of the problem their customers were experiencing, and on April 19, 2004, it opened trouble ticket number **du0cw** at PRTC Network Operations Center (NOC). In addition, several times Centennial staff contacted staff from the Wholesale Service and Translation departments of PRTC who told them that they cannot do block programming. See Exhibit 2.

7. In order to determine the correct routing of numbers beginning with 787-293, a carrier must perform a routing query to find out if the call must be directed to PRTC Trujillo Alto Central Office or to Centennial. Since PRTC fixed line consumers are being forced to dial 1, it seems reasonable to believe that PRTC is not performing the query, or is routing the calls to the long distance carriers (IXC). This is a clear and obvious violation by PRTC of the Board's orders in case number JRT-2003-CCG-0006, on Reverse Toll Billing (RTB).

8. By forcing its own subscribers to dial 11 digits instead of 10, PRTC is incurring in a discriminatory practice. Moreover, we do not know whether or not the customers that have activated long distance call blocking can communicate with Centennial numbers. Having to dial 1+10 by itself is a dissuasive element for those trying to reach a Centennial number since consumers are afraid to incur in long distance expenses for a call that should be local. All these actions by PRTC adversely affect Centennial's image and ability to compete, and create great uncertainty among all the consumers.

II. DISCUSSION

9. The Puerto Rico Telecommunications Act (Public Law 213) specifically grants the Board the power to "[o]rder the ceasing of activities or acts in violation of any provision of [Public Law 213] or of the regulations of the Board." [official translation] See

Article II-7 (b) (3). Furthermore, Rule 9 of the General Practice and Procedure Regulation of the Board provides for the Board to issue, in emergency cases, an order within five (5) days to be counted from the filing of a motion requesting said order. Given the damages that Centennial customers as well as consumers in general have begun to suffer as a result of the aforementioned PRTC actions, we request that the action herein be addressed under Rule 9, and that the Board order PRTC to carry out the routing to the 787-293-7 block as if it were a local call, and in keeping with the Board's previous orders, all of it within a term not to exceed five (5) days.

10. Whether or not to grant the preliminary injunction remedy must be determined in light of the five (5) criteria that have been established by the Supreme Court of Puerto Rico. These criteria are:

- 1) the nature of the damages which may be inflicted on the parties upon granting or denying the injunction;
- 2) its irreparability or the existence of an adequate remedy at law;
- 3) the probability that the plaintiff will eventually prevail upon deciding the case on its merits;
- 4) the probability that the action becomes academic if the injunction is not granted; and above all,
- 5) the possible impact on public interest of the remedy being requested.³ [official translation]

In this case, the analysis of the aforementioned criteria should lead the Board to grant the requested remedies.

³ See, Puerto Rico Telephone Company v. Tribunal Superior, 103 D.P.R. 200 (1975); A.P.P.R. v Tribunal Superior, 103 D.P.R. 903 (1975).

A. PRTC actions adversely affect Centennial customers as well as Centennial's image and ability to compete.

11. The wireless market in Puerto Rico is highly competitive since there are six Commercial Mobile Radio Service (CMRS) providers in Puerto Rico. A bad experience with a CMRS provider, even if caused by reasons beyond the carrier itself, may lead the customer to change to another carrier without thinking it twice.

12. It seems clear that Centennial's mobile service customers are at a disadvantage and are being discriminated upon since to communicate with their numbers outside the Metropolitan Area, they must dial eleven (11) digits instead of ten (10). It seems incongruous to have to dial 1 if a cellular call is considered "local," giving it in effect long distance treatment. In addition, those persons with a long distance call blocking option would be unable to communicate with Centennial numbers.

13. PRTC actions are prejudicial to Centennial because they affect the company's image and its ability to compete.

B. Centennial would suffer irreparable damage because of the loss of its market share.

14. At present, Centennial has identified problems with the 787-293-7XXX range, potentially affecting almost one thousand (1,000) customers. However the PA has already granted Centennial another eighteen (18) blocks, so that the number of affected customers could rise to close to eighteen thousand (18,000). Centennial would then be forced to refrain from activating units with numbers in the pooled ranges to prevent problems, but could find itself in the situation of not being able to meet the demand of requested units since NeuStar as a rule does not grant new numbers unless it can be shown that the previously allocated ranges are being used to capacity.

C. PRTC actions go against previous Orders by the Board, so that there it is highly likely that Centennial will prevail in this cause of action.

15. In its Resolution and Order of November 20, 2003 (Order) in case JRT-2003-CCG-0006, on Reverse Toll Billing (RTB), the Board ordered PRTC not to eliminate the RTB schedule then in service. During the examination of said case, PRTC alleged that the implementation of Local Number Portability (LNP) required a call routing that was different from the way it had been done up to that time, that the network changes needed to implement number pooling and LNP required the elimination of RTB, and that LNP implementation would prevent fixed service carriers from determining what calls were directed to a CMRS provider. PRTC's allegations did not convince the Board, which correctly decided that there was not any technical impediment for PRTC to carry out the query as an N-1 carrier, in order to determine the routing of numbers belonging to CMRS providers.

16. In this action, Centennial wants the Board to order PRTC to route pooled numbers blocks in the same manner they route 10,000-number blocks. That is, have PRTC carry out the translations, including making the queries, to determine the treatment to be given to the pooled block digits, by Order of the Board. It is wholly foreseeable that the Board will make a decision in this case that is consistent with its Previous Order, therefore, it is to be expected that Centennial will prevail in this case.

D. If immediate action is not taken, the eventual loss of customers caused by PRTC actions would render this action moot.

17. Having to dial 11 digits instead of 10 to complete a call to a Centennial subscriber is by itself a discriminatory action. This puts Centennial at a competitive disadvantage because it affects the company's image. For example, if a Centennial mobile service subscriber does business throughout the Island, the persons outside the Metropolitan

Area who try to call this subscriber, will get a recording telling them that they have to make a long distance call to a cellular, *ergo*, the subscriber becomes discontent, and the company's image is adversely affected both with the caller and the receiver.

E. PRTC actions would have the effect of making customers abandon their mobile service providers, which would affect the customers' choice options.

18. Centennial has identified a potential impact to close to 18,000 customers. Now then, an examination of Exhibit 18 shows that the PA has allocated close to 150 additional blocks to other CMRS providers in Puerto Rico, so that other 150,000 users could be similarly affected by PRTC's actions. This, in turn, can result in a resistance to request one thousand- (1,000) block numbers on the part of carriers, who might opt for requesting complete blocks of ten thousand (10,000) numbers, which would result in inefficient use of the codes assigned to Puerto Rico, thus undermining the very principle of pooling.

III. CONCLUSION

19. It is reasonable to believe that PRTC's refusal to route numbers based on one thousand number blocks is not the result of an impediment or limitation of the central office exchange equipment. The Board has already determined that there is no technical impediment to routing in a manner consistent with the orders of the Board in case JRT-1003-0006. Moreover, this is another attempt by PRTC to obtain additional revenues from its own local service customers, while marring the image of CMRS providers.

20. On the other hand, we do not know whether or not consumers who have the long distance call block option are prevented from making calls to a cellular phone despite the fact that all cellular phones in Puerto Rico are considered local.

21. These PRTC actions create great uncertainty among consumers. To make up for this, it would be reasonable for PRTC to establish a toll-free telephone number to orient

[CERTIFIED TRANSLATION]

consumers responsibly, completely, and impartially on dialing to cellular phones, and also, to publish said information in the press. As part of these informative efforts, consumers must be oriented as to the credits that PRTC will have to give the customer if it has made long distance charges for calls made to cellular phones.

THEREFORE, Centennial requests this Honorable Board to grant the requested remedy; order PRTC to make the routings and translations needed to make it unnecessary to dial 1; that if PRTC has charged for long distance services, it grant the necessary credits; and to desist from this practice, and establish a toll-free number and publish a press release to orient the customers.

RESPECTFULLY SUBMITTED.

SWORN STATEMENT

I, Héctor L. Damudt González, of legal age, married, Network Engineering Manager for Centennial Puerto Rico Operations Corp., and a resident of Aguadilla, Puerto Rico, do declare that I have read the preceding writ, and that to the best of my knowledge, the allegations and facts contained therein are true in all respects.

(Illegible Signature)

Declarant

[CERTIFIED TRANSLATION]

Affidavit No. [Hw: 459]

Sworn to and subscribed before me by Héctor L. Damudt González of the
aforementioned personal circumstances, whom I have identified by his driver's license
number 1993441, of the Commonwealth of Puerto Rico, with his photo and signature.

In San Juan, Puerto Rico. on this May [Hw: 17], 2004.

(Illegible Signature)

Notary Public

[Round Notary stamp: MARTIN PIRILLO FAVOT - MPF - ATTORNEY-AT-LAW • NOTARY
PUBLIC]

[CERTIFIED TRANSLATION]

I CERTIFY: I certify that on this date I have sent a true and exact copy of the preceding document, by mail and by messenger, to **Sandra E. Torres López, Esq.**, of Puerto Rico Telephone Company, P.O. Box 360998, San Juan, PR 00936-0998.

In San Juan, Puerto Rico, today May [Hw: 17], 2004.

QUÍÑONES & SANCHEZ, P.S.C.

P.O. BOX 71405

San Juan, PR 00936-8505

Tel.: (787) 620-6776

Fax: (787) 620-6050

(Illegible Signature)

Edwin Quiñones

Bar Assoc. No. 5770

equinones @qslaw.net

(Signed: Gladys A. Maldonado)

Gladys Ana Maldonado Rodríguez

Bar Assoc. No. 15004

gmaldonado @qslaw.net

CERTIFICATE OF TRANSLATION INTO ENGLISH

I, Carol Terry Cès, of legal age, married, a resident of San Juan, P.R., a professional interpreter/translator, certified by the Administrative Office of the United States Courts, do HEREBY CERTIFY that I have personally translation the foregoing document and that it is a true and accurate translation to the best of my knowledge and abilities.

In San Juan, Puerto Rico, today May 31, 2004.

Carol Terry Cès

Carol Terry Cès

ATABEX TRANSLATION SPECIALISTS, Inc.

P.O. Box 195044, San Juan, PR 00919-5044

EXHIBIT 2

[CERTIFIED TRANSLATION]

**GOVERNMENT OF PUERTO RICO
PUERTO RICO TELECOMMUNICATIONS
REGULATORY BOARD**

CENTENNIAL PUERTO RICO
OPERATIONS CORP.

Complainant

PUERTO RICO TELEPHONE
COMPANY

Defendant

[Stamped: **ORIGINAL**]

CASE NO. JRT-2004-Q-0206

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REGULATORY BOARD
'04 MAY 19 P 1:46
OFFICE (illegible)]

AMENDMENT TO COMPLAINT AND EMERGENCY ORDER REQUEST

TO THE HONORABLE BOARD:

COMES NOW Centennial Puerto Rico Operations Corp. ("Centennial") through the undersigned legal representative, and very respectfully States, Alleges, and Prays:

1. On May 17, 2004, Centennial filed *Complaint and Emergency Order Request* (Complaint), informing the Board that fixed line customers of Puerto Rico Telephone Company (PRTC) located outside the Metropolitan Area who tried to call wireless telephones from Centennial pooled blocks were being forced to dial the calls as long distance calls. Because it was an Emergency Order request, Centennial delivered a copy of the Complaint to PRTC via messenger the same day it was filed before the Board.

2. In the Complaint, Centennial argued that PRTC was not making the translations and queries needed to identify whether the donated blocks of numbers now belonged to a wireless provider, in which case, these calls had to be routed as local calls.

Centennial also requested that if PRTC was charging fees for long distance service, it give the necessary credits, and desist from said practice.

3. On May 18, 2004, PRTC sent a fax to Centennial, a letter dated May 11, 2004, regarding the calls from fixed lines telephones to wireless telephones, which we have appended as Exhibit 1. In said letter, PRTC alleges that PRTC systems cannot recognize whether or not the calls are destined to a mobile number and, therefore, those calls would entail long distance charges. Furthermore, PRTC asked Centennial to inform its cellular customers that calls made to their cellular phones would be charged long distance fees.

4. In its letter, PRTC quotes its petition filed before the Federal Communications Commission (FCC) for the latter to revoke the Board's Order. Although the FCC asked for comments¹, it has not issued a final ruling on said petition, and we can reasonably assume that the FCC shall show deference to the procedure conducted by the Board. Moreover, at no time did PRTC file for Reconsideration of the Board's Resolution and Order of November 20, 2003 in case JRT-2003-CCG-0006 on Reverse Toll Billing (RTB), so that PRTC did not exhaust the administrative procedures it was entitled to.

5. PRTC's statements in said letter are a clear admission by Defendant that it is not complying with the orders of the Board in case JRT-2003-CCG-0006, to wit: that it not make the routings and queries in a manner not consistent with RTB, and charging fixed line customers long distance fees for calls to wireless phones. For these reasons, the Board should issue the Emergency Order as requested by Centennial.

¹ In February 2004, both the Puerto Rico Telecommunications Board and Centennial submitted their comments to the FCC in Docket 95-116, opposing PRTC's petition.

THEREFORE, Centennial requests that this Honorable Board acknowledge what we have submitted herein, grant Centennial the requested remedies, and impose the corresponding legal sanctions on PRTC.

RESPECTFULLY SUBMITTED.

I CERTIFY: I certify that on this date I have sent a true and exact copy of the preceding document, by regular mail and fax to **Sandra E. Torres López, Esq.**, of Puerto Rico Telephone Company, P.O. Box 360998, San Juan, PR 00936-0998.

In San Juan, Puerto Rico, today May 19, 2004.

QUÍÑONES & SANCHEZ, P.S.C.

P.O. BOX 71405

San Juan, PR 00936-8505

Tel.: (787) 620-6776

Fax: (787) 620-6050

(Illegible Signature)

Edwin Quiñones

Bar Assoc. No. 5770

equinones @qslaw.net

(Signed: Gladys A. Maldonado)

Gladys Ana Maldonado Rodríguez

Bar Assoc. No. 15004

gmaldonado @qslaw.net

CERTIFICATE OF TRANSLATION INTO ENGLISH

I, Carol Terry Cès, of legal age, married, a resident of San Juan, P.R., a professional interpreter/translator, certified by the Administrative Office of the United States Courts, do HEREBY CERTIFY that I have personally translation the foregoing document and that it is a true and accurate translation to the best of my knowledge and abilities.

In San Juan, Puerto Rico, today *May 31, 2004.*

Carol Terry Cès
Carol Terry Cès
ATABEX TRANSLATION SPECIALISTS, Inc.
P.O. Box 195044, San Juan, PR 00919-5044